

HOUSE BILL REPORT

HB 2406

As Passed Legislature

Title: An act relating to insurance.

Brief Description: Changing insurance statutes, generally.

Sponsors: By Representatives Roach and Kirby; by request of Insurance Commissioner.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/10/06, 1/12/06 [DP].

Floor Activity:

Passed House: 1/18/06, 96-0.

Passed Senate: 2/28/06, 45-0.

Passed Legislature.

Brief Summary of Bill

- Requires property and casualty insurers to file additional actuarial opinions and information.
- Adds an additional financial test which allows the Insurance Commissioner to take action based on the financial information submitted by a property and casualty insurer.
- Shifts duties from the Insurance Commissioner to the Chief of the Washington State Patrol through the Director of Fire Protection.
- Removes the requirement for a written rejection when a named insured or spouse chooses a lower limit of coverage related to underinsured motorists.
- Eliminates unnecessary reports and eliminates obsolete report

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, O'Brien, Santos, Serben, Simpson, Strow and Williams.

Staff: Jon Hedegard (786-7127).

Background:

The Insurance Commissioner (Commissioner) is authorized to regulate insurance in Washington. This includes oversight of financial solvency, licensing of agents and brokers, approval of insurance rate and form (contract) filings, collection of premium taxes, and responding to consumer complaints.

Washington's financial solvency system is accredited by the National Association of Insurance Commissioners (NAIC). Accredited insurance departments are reviewed every five years to ensure they continue to meet baseline standards. The accreditation standards require that insurance departments have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that they have the necessary resources to carry out that authority. If a state is not accredited, the domestic insurers in that state may be subject to independent financial exams by every other state.

Actuarial Opinions.

Life insurers are required to annually file an actuarial opinion regarding whether "the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state." Life insurers must include an opinion on whether the reserves and items held in support of the policies and contracts "make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts."

Other insurers are not required to file similar reports in the ordinary course of business.

Financial Statements.

All authorized insurers (domestic, foreign, and alien) must file financial statements with the Office of the Insurance Commissioner (OIC). Financial statements are also filed with the National Association of Insurance Commissioners. The statements must be filed before the first day of March.

Risk-Based Capital (RBC) Reports.

All insurers must file reports that use formulas to assess their solvency and the nature of the risk of their business. If the reports do not meet a specific threshold, a correlative action may be taken by the Insurance Commissioner. The steps are progressive and range from additional reports to a takeover of a company. The first step is called a "company action level event" where the insurer must submit a report that identifies what led to the situation, corrective action to remedy the situation, and a projection of financial results with and without the corrective actions. Insurers may face an action level event if the RBC result does not exceed twice the "authorized control level."

Life insurers also are subject to a "company action level event" if their RBC result is not more than 2.5 times the "authorized control level" and their report indicate a negative trend.

Health Carrier Compensation Report.

Health carriers must file a supplemental compensation report with the OIC. The report must detail the names and compensation of officers, directors, and trustees.

Fire Marshal.

The Commissioner was, at one point, also the Fire Marshal for the State of Washington. These duties were later largely transferred to the Washington State Patrol (WSP). The Chief of the WSP is now required to appoint a Director of Fire Protection (a new title for the old position of Fire Marshal).

A chapter in the Title 48 RCW, the Insurance Code, is still dedicated to state fire protection. Additionally, the Insurance Commissioner is required to establish uniform rates governing payments to fire districts from school districts for fire protection.

Group Life.

In 2005, RCW 48.24.030 was amended in two separate bills. The amendments addressed the same issues but the language was not the same.

Flood Insurance Education and Training.

Insurance agents have pre-licensure education and continuing education requirements as a part of receiving and maintaining a license. The federal Flood Insurance Reform Act of 2004 imposed additional training and education requirements for agents who sell flood insurance. The requirements were established by the Director of the Federal Emergency Management Agency (FEMA) in cooperation with the insurance industry, state insurance commissioners, and interested parties. Those requirements were published in the Federal Register on September 1, 2005 (Volume 70, Number 169).

TRICARE Supplement Health Insurance.

TRICARE is the U.S. Department of Defense's (DOD) worldwide health care program for uniformed service members and their families. TRICARE coverage is available to service members upon their retirement, even if they subsequently become employed. The Public Employee Benefits Board (PEBB) provides health coverage for state and other public employees. However, many of those who are subsequently employed by the state or other public employers choose PEBB coverage instead of TRICARE coverage. In 2005, the Legislature allowed the Health Care Authority (HCA) through the PEBB to offer a TRICARE supplement. Retired military personnel employed by the state might choose their DOD-funded TRICARE coverage, leaving the state to pay only for the less costly supplemental benefits.

Written Rejection of Underinsured Motorist Coverage.

Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must provide protection for insureds who are legally entitled to recover damages for bodily injury, death, or property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles. Generally, the amount of coverage must be in the same amount as the insured's third party liability coverage unless the insured or their spouse rejects all or part of the coverage. A rejection

must be in writing. The rejection requirement applies only to original issuance of policies. It does not apply to renewal or replacement policies.

Miscellaneous Report Requirements.

RCW 48.05.490 outlines the standards for the RBC report required in 1995 from property and casualty insurers. The RBC requirement was passed for property and casualty insurers in 1995.

RCW 48.43.365 outlines the filing deadline for the RBC report required of health insurers in 1998. The RBC requirement was passed for health insurers in 1998.

Summary of Bill:

Actuarial Opinions.

Property and casualty insurers doing business in Washington are required to annually file a statement of actuarial opinion in accordance with instructions adopted by the NAIC. This statement is a public document.

Every property and casualty insurer domiciled in Washington must also annually submit an actuarial opinion summary in accordance with instructions adopted by the NAIC. Every authorized property and casualty insurer that is not domiciled in Washington must provide an actuarial opinion summary upon request of the Commissioner.

An actuarial report and underlying work papers as adopted by the NAIC must be filed with each actuarial opinion.

The actuarial opinion summary, actuarial report, and underlying work papers, and any other related documents or materials are confidential. They are not subject to disclosure or subpoena or discovery. They are not admissible in evidence in a private civil action.

Financial Statements.

Only domestic insurers must file financial statements with the OIC. The statements must be filed on or before the first day of March.

Risk-Based Capital (RBC) Reports.

Property and casualty insurers also are subject to a "company action level event" if their RBC result is not more than three times the "authorized control level" and their report indicates a negative trend under the trend test calculation in the RBC instructions.

Health Carrier Compensation Report.

The report does not have to be filed with the OIC if substantially similar information is filed with the OIC or the NAIC.

Fire Marshal.

Chapter 48.48 RCW is recodified in chapter RCW 43.43; this moves the chapter from the Insurance Code to the RCW chapter that addresses the WSP.

The requirement to establish uniform rates governing payments to fire districts from school districts for fire protection is transferred from the Commissioner to the Chief of the WSP through the Director of Fire Protection.

Group Life.

RCW 48.24.030 and the session laws from each of the 2005 bills are reenacted and amended into the same form.

Flood Insurance Education and Training.

Washington state agents who sell flood insurance policies must comply with the federal rules as established or as subsequently changed by FEMA .

Upon request, licensed insurers must demonstrate to the Commissioner that their licensed and appointed agents who sell federal flood insurance are in compliance with the minimum standards established by FEMA.

TRICARE Supplement Health Insurance.

A reference to TRICARE supplement health insurance is added to the list of exceptions under the definition of "health plan" or "health benefit plan."

Written Rejection of Underinsured Motorist Coverage.

A written rejection is not required when a named insured or spouse chooses a coverage amount that is less than the third party liability coverage for property damage.

Miscellaneous Report Requirements Repealed.

The provisions related to the 1995 RBC report by property and casualty insurers and related to the 1998 RBC report by health insurers are repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except sections 1 through 4 of this act, relating to property and casualty actuarial opinions, which take effect December 31, 2007.

Testimony For: The Office of the Insurance Commissioner thanks the members, industry, and interested parties for working together. We have a broad title and all have agreed that the bill will be used to fix agreed-upon problems with agreed-upon solutions. Industry supports the bill. As an example of why this is important, a section of the bill addresses a statute that was amended slightly differently in two different bills last session. That resulted in two new sections and a Code Reviser's note on how those sections should be interpreted. We worked together to meld those sections into a new section. It is an uncontroversial but important fix. This bill addresses many different technical issues.

(

With concerns) The bill may not be perfect. The Legislature established a new type of fire protection entity in 2004 that is not reflected in the bill. The composition of the committee that discusses the fire protection rates does not include fire chiefs; they should be added to the committee. Fire chiefs were not involved in discussions on this bill. The bill should be improved while there is an opportunity to do so rather than waiting until next year to address this issue.

Testimony Against: None.

Persons Testifying: Mary Clogston OIC; and Mel Sorensen, American Council of Life Insurers Assoc., Property Casualty Insurers Assoc.

(With concerns) Gordon Walgreen, Washington State Fire Chiefs.

Persons Signed In To Testify But Not Testifying: None.